

EXHIBIT A

In the Matter Of:

Students for Fair Admissions vs U.S. Naval Academy

1:23-cv-02699

CAPTAIN JASON BIRCH

August 08, 2024

Highly Confidential



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P R O C E E D I N G S

Whereupon,

Captain Jason Birch,

A witness of lawful age, after being duly sworn to
tell the truth, the whole truth and nothing but the
truth, testified as follows:

EXAMINATION:

BY MR. CONNOLLY:

Q. Good morning.

A. Good morning.

Q. My name is Michael Connolly, and I'm a
lawyer for the Plaintiff students of admissions in
this case.

Could you please state your name?

A. I'm Captain Jason Birch.

Q. Have you ever been deposed before?

A. Yes.

Q. When were you deposed?

A. I was deposed last year in connection with a
personal divorce.

Q. Have you ever given testimony in a court

1 proceeding?

2 A. Not that I'm aware of.

3 Q. The deposition for your personal divorce, I
4 assume that had nothing to do with the Naval Academy
5 or the Navy in general?

6 A. Correct.

7 Q. Did you prepare for this deposition?

8 A. Yes.

9 Q. What did you do?

10 A. I met with my attorney team, to my left.

11 Q. When did you meet with them?

12 A. We met this week.

13 Q. How many days?

14 A. We met three days this week.

15 Q. For approximately how many hours each day?

16 A. Approximately two to three hours.

17 Q. Each day?

18 A. Correct.

19 Q. So total about nine hours? Nine, ten hours?

20 A. I would say more about six to seven hours,
21 something like that.

1 Q. All right.

2 Did you review any documents in preparation
3 for your deposition?

4 A. Yes.

5 Q. Which documents did you review?

6 A. I couldn't recall all of them by name. Some
7 of the documents were in connection with the
8 admissions board and policies therein.

9 Q. And you said you don't recall any in
10 particular?

11 A. No.

12 Q. Did you discuss your deposition with anybody
13 else?

14 A. No.

15 Q. Is there any reason you're unable to give
16 complete and truthful testimony today?

17 A. No.

18 Q. Are you on any medication or under the
19 influence of anything that would impact your ability
20 to give complete and truthful testimony?

21 A. No.

1 Q. I didn't think so.

2 Where did you attend college?

3 A. I attended the United States Naval Academy.

4 Q. What year did you graduate?

5 MR. MENDEZ: Mike, just really quickly
6 before we get into the substance, we just wanted to
7 reserve the right to read and sign. And also we'd
8 like for this deposition to proceed under a protective
9 order, if that's okay?

10 MR. CONNOLLY: Which designation?
11 Confidential?

12 MR. MENDEZ: I think it's highly
13 confidential for now. And then we reserve the right
14 to review and designate after the fact. But let's
15 have this proceed as highly confidential for now.

16 MR. CONNOLLY: Okay. Could you tell me
17 generally on what ground?

18 MR. MENDEZ: Well, I don't know exactly what
19 the substance of the deposition is going to be, but in
20 the event that, you know, we discuss, you know,
21 information that's highly protective under the

1 protective order, I just wanted to make sure we
2 proceed, you know, just with the utmost caution for
3 that.

4 MR. CONNOLLY: Understood. Okay.

5 BY MR. CONNOLLY:

6 Q. What year did you graduate the Naval
7 Academy?

8 A. I graduated in 1999.

9 Q. Where are you from originally?

10 A. I grew up in Crofton, Maryland.

11 Q. Is that a small town?

12 A. I'd say it's a small to mid-sized suburb
13 within this county.

14 Q. What did you study when you were at the
15 Naval Academy?

16 A. Well, here at the Naval Academy I studied
17 general science.

18 Q. And did you attend a graduate school?

19 A. Yes, I have.

20 Q. What was the graduate school?

21 A. Johns Hopkins School of Advanced

1 International Studies.

2 Q. And what was the degree you got?

3 A. I earned a Master's in International Public
4 Policy.

5 Q. And did you do that graduate school right
6 after you graduated from the Naval Academy?

7 A. No.

8 Q. When did you do the graduate school?

9 A. I graduated in 2014.

10 Q. What was your first service assignment when
11 you were commissioned into the Navy?

12 A. After commissioning, I was assigned to Seal
13 Team 2.

14 Q. So this would have been around 2000? 1999?

15 A. In 2000.

16 Q. In 2000. What did you do as part of Seal
17 Team 2?

18 A. At Seal Team 2 I was assigned to various
19 leadership positions as a naval special welfare
20 officer or a Navy Seal.

21 Q. How long were you in Seal Team 2?

1 A. I was assigned to Seal Team 2 from
2 approximately 2000 to 2006.

3 Q. How big is Seal Team 2? How many people?

4 A. At the time it was approximately, I would,
5 say 150 enlisted and officers assigned to the command.
6 And that could vary depending on the situation.

7 Q. And then after Seal Team 2, what did you do?

8 A. After my assignment at Seal Team 2, I was
9 assigned to Naval Special Warfare Unit 3.

10 Q. And was this in 2006?

11 A. Correct.

12 Q. How long were you there?

13 A. I was at Naval Special Warfare Unit 3 for
14 approximately one year.

15 Q. And what did you do as part of this unit?

16 A. When assigned to Naval Special Warfare
17 Unit 3, I assisted with training, coordination and
18 deployment of elements working in and around the
19 central command area of responsibility.

20 Q. And then after naval special -- Naval
21 Special Warfare Unit 3; is that right?

1 A. It's Naval Special Warfare Unit 3.

2 Q. After that, what was your next position?

3 A. After that assignment, I was assigned to
4 Seal Team 4.

5 Q. And would this have been in 2007?

6 A. It was somewhere between 2006, 2007 time
7 frame.

8 Q. And how long were you with Seal Team 4?

9 A. I was with Seal Team 4 for about two years.

10 Q. So until about 2008, 2009?

11 A. That's correct.

12 Q. Okay. And what did you do generally with
13 Seal Team 4?

14 A. At Seal Team 4 I was assigned as a troop
15 commander.

16 Q. And what does a troop commander do?

17 A. A troop commander leads a certain number of
18 platoons.

19 Q. After Seal Team 4 what did you do?

20 A. After Seal Team 4 I was assigned to Special
21 Operations Command Pacific.

1 Q. And how long were you in that position?

2 A. I was at Special Operations Command Pacific
3 for approximately two years.

4 Q. So year-wise, what would you say?

5 A. Year-wise approximately from 2009 to 2011.

6 Q. And what did you do for Special Operations
7 Command Pacific?

8 A. While assigned at Special Operations Command
9 Pacific, I was working in operations as well as
10 working and spending time in South Asia and Southeast
11 Asia in support of the Pacific commander.

12 Q. All right. And then after Special
13 Operations Command Pacific, what did you do?

14 A. From there I was assigned to Seal Team 8.

15 Q. And how long were you in Seal Team 8?

16 A. I was assigned at Seal Team 8 from
17 approximately 2011 through 2013.

18 Q. And what did you do for -- what were your
19 general duties for Seal Team 8?

20 A. At Seal Team 8 I was the operations officer
21 as well as the executive officer of that team.

1 Q. Then after Seal Team 8, what did you do?

2 A. After my assignment at Seal Team 8 I served
3 as the Aide to the Vice Chief of Naval Operations.

4 Q. Approximately what years were you in that
5 position?

6 A. Approximately from 2011 through 2013.

7 Q. So I had in my notes you were at Seal Team 8
8 from 2011 to 2013. You were doing both these
9 positions at the same time?

10 A. No. And so, again, there were approximate
11 dates. It's been sometime. So, again somewhere
12 between the time frame of 2011 or '12, as I recall,
13 through 2013.

14 Q. So let me make sure I have it right. Seal
15 Team 8, what -- approximately what years were you at
16 Seal Team 8?

17 A. Again, approximately 2011 through '13. I
18 can't recall the exact years.

19 Q. Okay.

20 A. Or months.

21 Q. And I guess what I'm struggling with is it

1 sounds like you're saying you were doing -- that you
2 were the aide to the vice chief of naval operations
3 also from 2011 to 2013.

4 A. No. They were completely separate
5 positions, different assignments, different locations.
6 I just can't recall the exact years that I served in
7 those positions, but it was approximately during that
8 time frame.

9 Q. Got it.

10 A. Certainly I served first at Seal Team 8 as
11 the operations officer and the executive officer and
12 then was assigned to work as the Aide to the Vice
13 Chief of Naval Operations.

14 Q. Okay.

15 And what did you do as the Aide to the Vice
16 Chief of Naval Operations?

17 A. As the Vice Chief's Aide, I assisted with
18 preparing his travel throughout the United States and
19 as well as international air travel and coordinating
20 fleet concentrations throughout the world.

21 Q. What did you do after this position?

1 A. After that position, I was able to spend a
2 year earning my Master's degree at SAIS -- Johns
3 Hopkins School of Advanced International Studies.

4 Q. S-A-I-S; right?

5 A. S-A-I-S.

6 Q. And approximately what year was that?

7 A. Approximately from 2013 through 2014.

8 Q. Okay.

9 And what did you study there?

10 A. I studied international public policy.

11 Q. And then, what did you do after Johns
12 Hopkins?

13 A. After my schooling, I was assigned to the
14 Naval Special Warfare Group 4.

15 Q. What was the approximate years for that?

16 A. Approximately I served at Naval Special
17 Warfare Group 4 from 2014 through 2017.

18 Q. Okay. And what did you do as part of Naval
19 Special Warfare Group 4?

20 A. At Naval Special Warfare Group 4 I was
21 assigned as the operations officer as well as the

1 chief staff officer.

2 Q. Okay. And after Naval Special Warfare
3 Group 4, what did you do?

4 A. After my assignment at Naval Special Warfare
5 Group 4 I was assigned in command of Seal Team 10.

6 Q. Approximately what years were you there?

7 A. I was in command of Seal Team 10 from 2017
8 through 2019.

9 Q. And what does it mean to be in command of
10 Seal Team 10?

11 A. Being in command of Seal Team 10 means to be
12 responsible for the training, preparation and
13 deployment of my Seal Team in support of national
14 objectives.

15 Q. Then after Seal Team 10, what did you do?

16 A. After my assignment in Seal Team 10, I was
17 assigned to the U.S. Special Operations Command.

18 Q. Okay. And how long were you in that
19 position?

20 A. I was at the U.S. Special Operations Command
21 from 2020 through 2023.

1 Q. And what did you do as part of the U.S.
2 Special Operations Command?

3 A. At the U.S. Special Operations Command I
4 worked in operations as well as efforts to support
5 people in culture.

6 Q. What do you mean by support people in
7 culture?

8 A. When I say support people in culture, I mean
9 we looked at the multitude of areas that support
10 having a healthy and effective team in terms of all
11 aspects of people assigned to various elements within
12 the command.

13 Q. And what did you do after U.S. Special
14 Operations Command?

15 A. After my assignment to U.S. Special
16 Operations Command, I was assigned here at the U.S.
17 Naval Academy.

18 Q. And what is your position here?

19 A. I am currently serving as the Third
20 Battalion Officer.

21 Q. And what does -- what do your current

1 position entail as the Third Battalion Officer?

2 A. As the Third Battalion Officer, I am senior
3 mentor to approximately 750 midshipmen of varying
4 levels or ranks within the brigade admission. So
5 freshman or plebes through firsties or seniors. So
6 from freshman to seniors.

7 Q. Have you ever -- have you ever been
8 deployed?

9 A. Yes.

10 Q. Where have you been deployed?

11 A. I have been deployed to the UCON, CENTCOM,
12 SOCOM, PACOM areas of responsibility.

13 Q. Do you have any combat experience?

14 A. Yes, I do.

15 Q. When did you see combat?

16 A. I've seen combat throughout my career.

17 Q. Maybe we'll go one by one real quickly.

18 When you were on Seal Team 2, did you see
19 combat?

20 A. Yes.

21 Q. Where were you -- where did you see combat

1 when you were on Seal Team 2?

2 A. Within the central command areas of
3 responsibilities. At CENTCOM as an acronym for the
4 central command area of responsibility for the Middle
5 East.

6 Q. So you were in the Middle East when you were
7 on Seal Team 2?

8 A. Correct.

9 Q. Did you see combat when you were a part of
10 the Naval Special Warfare Unit 3?

11 A. No.

12 Q. Where were you -- where were you stationed
13 for that position?

14 A. Naval Special Warfare Unit 3 is located in
15 Bahrain.

16 Q. Did you see combat when you were in Seal
17 Team 4?

18 A. Yes.

19 Q. Where did you see combat there?

20 A. In the CENTCOM. In the central command area
21 of responsibility.

1 Q. Again, was that in the Middle East?

2 A. Yes.

3 Q. And where in the Middle East?

4 A. Iraq.

5 Q. And for Seal Team 2, that was also in Iraq?

6 A. Yes.

7 Q. Did you see combat as part of the Special
8 Operation Command in the Pacific?

9 A. No.

10 Q. Where were you located for that position?

11 A. I was -- Special Operations Command Pacific
12 headquarters is in Hawaii.

13 Q. Okay.

14 As part of Seal Team 8 did you see combat?

15 A. No.

16 Q. Where were you located for Seal Team 8?

17 A. Seal Team 8 is headquartered in Virginia
18 Beach, Virginia.

19 Q. When you were the Aide to the Vice Chief of
20 Naval Operations, did you see combat?

21 A. No.

1 Q. Where were you located for that position?

2 A. While serving as Aide to the Vice Chief of
3 Naval Operations I worked out of the Pentagon.

4 Q. I assume you did not see combat when you
5 were studying for your Master's degree; is that
6 correct?

7 A. Correct.

8 Q. Did you see combat when you were part of the
9 Naval Special Warfare Group 4?

10 A. No.

11 Q. And where were you located for that
12 position?

13 A. Naval Special Warfare Group 4 is in Virginia
14 Beach, Virginia.

15 Q. Did you see combat as part of Seal Team 10?

16 A. Yes.

17 Q. Where did you see combat?

18 A. While deployed to Somalia.

19 Q. Where were you based for Seal Team 4?

20 A. In Mogadishu.

21 Q. Did you see combat as part of the U.S.

1 Special Operations Command?

2 A. No.

3 Q. And where were you located for U.S. Special
4 Operations Command?

5 A. U.S. Special Operations Command is located
6 in Tampa, Florida.

7 Q. And since you have joined the Naval Academy,
8 have you seen combat?

9 A. No, I have not.

10 Q. And I assume you are stationed out of
11 Annapolis?

12 A. Correct.

13 Q. For Seal Team 2, I believe you said it was
14 about 150 enlisted and officers as part of Seal Team
15 2. Do I have that correct?

16 A. Approximately, yes.

17 Q. Have you ever had a job or position where
18 you studied or assessed issues of diversity?

19 A. Yes.

20 Q. In which job or jobs was that?

21 A. During my time at U.S. Special Operations

1 diverse teams were more effective teams and teams that
2 were best prepared for uncertain and unpredictable
3 situations both state side and deployed.

4 Q. And how did your team reach the conclusion
5 that more diverse teams were more effective teams?

6 A. Well, I think that -- again, speaking from
7 my perspective, more diverse teams are -- again,
8 because we're in the people business, being able to
9 draw on a multitude of dimensions when it comes to
10 diversity, when it comes to training and how that
11 eventually translates to a more effective team in all
12 deployments.

13 Q. So, did your team issue a report of any kind
14 or a memo or anything?

15 MR. MENDEZ: Objection to form. Compound.

16 THE WITNESS: So there -- to my knowledge,
17 there were some results published in terms of
18 reporting back to congress as mandated through various
19 taskings.

20 BY MR. CONNOLLY:

21 Q. Do you know what conclusions those reports

1 reached?

2 MR. MENDEZ: Objection. Foundation.

3 THE WITNESS: So I couldn't, you know,
4 regurgitate all the findings from those reports and
5 things. But, again, I could say from my experience
6 that certainly having more diverse teams help to
7 create a better command culture, better experience for
8 teams, leadership teams as well, and ultimately
9 contributed to a more effective team, in my
10 experience.

11 BY MR. CONNOLLY:

12 Q. Aside from leading the Health of Special
13 Operation Forces, have you had any other positions in
14 your career where you studied issues of diversity?

15 A. Not to my recollection.

16 Q. And do you serve on the admissions board of
17 the Naval Academy?

18 A. Yes, I do.

19 Q. Can you tell me generally what you do as
20 part of the admissions board?

21 A. Yes. As part of the board, I review

1 applicants' admission packages to include reviewing
2 their academic, physical and extracurricular or -- so
3 their physical, their -- all the different aspects
4 that go into attributing to some of the things we're
5 looking for as potential members of the U.S. Naval
6 Academy to include our missions being morally,
7 mentally and physical.

8 Q. And after you review these applications, do
9 you provide comment?

10 A. No.

11 Q. What do you do after you've reviewed
12 these -- after you have reviewed applications?

13 A. Could you ask the question again? I'm
14 trying to understand the question. Sorry.

15 Q. You say you review applications to the Naval
16 Academy?

17 A. Yes.

18 Q. Once you've reviewed an application, what do
19 you do with that application? Do you provide
20 comments? Do you give scores? Do you make a
21 recommendation, that sort of thing?

1 MR. MENDEZ: Objection. Compound.

2 THE WITNESS: Right.

3 So, yes, I do make a recommendation.

4 BY MR. CONNOLLY:

5 Q. And what are recommendations that you make?

6 MR. MENDEZ: Objection to form. Vague.

7 THE WITNESS: So as part of the process,
8 either as qualified or not qualified.

9 BY MR. CONNOLLY:

10 Q. Do you provide written feedback about
11 applicants? Maybe feedback isn't the right word.

12 Do you ever provide written comments on
13 applicants to anyone?

14 MR. MENDEZ: Objection to form.

15 THE WITNESS: As part of reviewing the
16 record, as part of reviewing different applicants'
17 records, I do make written notes to ensure, you know,
18 the accuracy of the package and, you know, the
19 elements within, so if I'm answering your question.

20 BY MR. CONNOLLY:

21 Q. Do you ever recommend that an applicant

1 Q. Have you ever seen this document before?

2 A. I believe I have.

3 Q. On page 1 at the bottom , it says your name,
4 Jason Birch. And then it says, "Captain Birch
5 currently serves as a Third Battalion Officer with the
6 United States Naval Academy and serves on the
7 admissions board. Captain Birch is likely to have
8 discoverable information concerning his personal
9 experiences regarding the importance of diversity,
10 including racial and ethnic diversity in the Navy's
11 Officer Corp."

12 Did I read that correctly?

13 A. Yes.

14 Q. Do you intend to provide testimony at trial
15 about your personal experiences regarding the
16 importance of diversity, including racial and ethnic
17 diversity, in the Navy's Officer Corp?

18 MR. MENDEZ: Objection. Foundation.

19 You may answer.

20 THE WITNESS: I'm willing to speak to my
21 experiences within my career with regard to diversity.

1 BY MR. CONNOLLY:

2 Q. Do you intend to provide -- for the
3 statement that I read, do you intend to provide
4 testimony in addition to -- strike that.

5 Do you intend to testify at trial about
6 anything other than what it says on this paper, which
7 is your personal experiences regarding the importance
8 of diversity, including racial and ethnic diversity in
9 the Navy's Officer Corp?

10 MR. MENDEZ: Objection. Foundation.

11 THE WITNESS: If I'm to testify in this
12 case, I'll answer every question to the best of my
13 ability from my experience throughout my life and
14 career, if that answers your question.

15 BY MR. CONNOLLY:

16 Q. Can you tell me generally what are your
17 personal experiences regarding the importance of
18 diversity, including racial and ethnic diversity in
19 the Navy's Officer Corp?

20 A. Well, I can't speak to -- I don't speak for
21 the big Navy, if you will. But I can definitely offer

1 some reflections from my time, my time in uniform.
2 Certainly, I think that's -- my diverse background has
3 been helpful throughout my career. There are
4 certainly some situations -- and most recently I
5 believe that my time in command of Seal Team 10 offers
6 some reflections in that regard.

7 I was the first black officer to command the
8 Seal Team, and being able to walk into a room of
9 Somalia leaders and other African partners and to --
10 at least from one aspect of my diversity -- right now
11 I'm speaking about at least race, the way I look,
12 being a black man -- I believe that was powerful to
13 them. And I can say that, because they told me. They
14 said, Hey, we have never seen anyone that looks like
15 you in a position like this. And so I feel I was able
16 to kind of break down some of the -- reduce some of
17 the natural apprehensions that power forces have when
18 they work with American units at times and it helped
19 to kind of foment and encourage cooperation between
20 leadership. And that trickled down to improved
21 cooperation between my elements and by encouraging

1 more training and really improving and contributing to
2 their willingness to work together, I believe made us
3 a more cohesive team. And that translated to
4 operational success on the battlefield as we hunted
5 the enemy.

6 And I know this because they told me. They
7 said, Hey -- they viewed me as a brother. Hey,
8 brother, this is really amazing to see you.

9 So, again, it offered and set kind of the
10 foundation for more conversations about my background
11 experiences to include where I grew up, where I
12 travelled to, where I had worked, and some of the
13 different experiences that I had.

14 Q. You believe -- do you believe that racial
15 diversity is important for the Navy?

16 MR. MENDEZ: Objection. Foundation.

17 THE WITNESS: Again, I can't speak for the
18 Navy. I can speak for elements that I have been a
19 part of, even the teams I have been a part of, and I
20 would say that all diversity and all the different
21 dimensions of diversity are extremely helpful to

1 forming cohesive teams with a good command climate,
2 with a good culture, and that are best prepared for a
3 multitude of scenarios that you can encounter down
4 range. And certainly, the uncertainty when it comes
5 to dealing with situations that you can't predict in
6 both training and certainly overseas.

7 So I wouldn't just land on racial/ethnic
8 diversity, but diversity of all kinds.

9 BY MR. CONNOLLY:

10 Q. Your belief that diversity is important, did
11 you form that belief based on your own experiences?

12 A. I've formed that -- I've come to believe
13 that diversity of all types is important through my
14 experience and from input from my teammates throughout
15 my career, as they've told me and discussed in
16 different situations.

17 Q. Did any studies or report inform your view
18 that diversity is important?

19 MR. MENDEZ: Objection. Foundation.

20 THE WITNESS: So to answer that question,
21 repeating back just what informed my opinion, I would

1 say more so than, you know, studies. I would land
2 more on just personal interactions and situations I've
3 dealt with in my own time in uniform. You know, I can
4 think of a certain situation when I was at Seal Team
5 8, and I was the executive officer for a time. And we
6 had very few people of color within the team. And,
7 sadly, we dealt with a situation where one of my
8 operators, a black operator, was dealing with racism,
9 you know, to include verbal remarks, nasty stuff,
10 caricatures, written caricatures, things like that,
11 that he was subjected to.

12 And I remember him telling me that because
13 of my background, because of my experience in the
14 position I was in, that he felt confident, more
15 confident in coming forward with that situation in
16 those circumstances, because for him at least, as he
17 explained to me, he felt confident the issue would be
18 handled professionally and quickly and, you know,
19 thoroughly investigated and be dealt with.

20 And so, I just bring it up as an example of
21 my personal experience. I feel that diversity brought

1 strength to the team just in terms of my position and
2 diversity I brought to that position gave him
3 confidence and strength and trust and confidence in
4 his leadership that we would deal with that situation
5 promptly and accurately and appropriately.

6 Q. The story you just told, who was the
7 individual that came to you?

8 A. I can't recall his name.

9 Q. When did this happen?

10 A. When? Oh, this was during my tour at Seal
11 Team 8.

12 Q. And do you recall the name of the individual
13 who was engaging in racist behavior?

14 A. I do not. And it was -- but it was more
15 than one individual, I guess. But, no, I do not
16 recall the exact individual's names that perpetrated
17 the behavior.

18 Q. What was the outcome? What did you do after
19 receiving this report?

20 A. And so after receiving the reports, we
21 conducted investigations and had different all hands

1 calls, which are essentially opportunities to address
2 different elements of my team, talking about some of
3 these issues, the importance of treating everyone with
4 dignity and respect, and things like that.

5 But, what I found notable during this time
6 frame, because some of this behavior was noted during
7 deployment, you know, while we were actually overseas,
8 that we had to maneuver some of the different
9 leadership personnel from the -- from their job at the
10 time. So we had to make some reassignments, take some
11 folks offline, et cetera, while we conducted these
12 investigations.

13 And so it was challenging because we were in
14 the middle of our missions. And so it had a negative
15 effect on our capacity to do those things while we
16 were investigating those allegations and investigating
17 what happened.

18 For me it reinforced the importance of the
19 impact of this type of behavior and really in a lot of
20 ways a lack of diversity can have on accomplishing a
21 mission.

1 Q. I would like to delve into sort of the
2 specifics of this incident.

3 Can you tell me a little bit more about what
4 happened with the -- what happened in this event?

5 A. Sure.

6 As I recall, we have -- most leaders have a
7 biography. And so their biography would include a
8 picture and then biographical information that would
9 include, you know, their hair color, eye color, places
10 that they've deployed, hometown, and things like that.

11 And so, in this situation, this individual's
12 printed written biography was posted up in -- we'll
13 say the team room area, the team room area, and was
14 -- was adjusted -- was adjusted to reflect hurtful,
15 negative stereotypes that go against our core values.
16 So filled with racial slurs and other demeaning
17 verbiage and things like that.

18 Q. So there was a black officer on Seal Team 8,
19 who had a biography on the wall. Do I have that
20 correct?

21 A. No. It wasn't an officer. It was -- it was

1 an enlisted person.

2 Q. This was in Somalia?

3 A. No. This was during my time at the Seal
4 Team 8.

5 Q. Oh, in Virginia Beach?

6 A. Yes.

7 Q. And do you recall what was written on this
8 -- on his biography?

9 A. I can't recall the exact words used, but,
10 again, filled with racial slurs and stereotypical --
11 what I would call hurtful language, demeaning and
12 inappropriate language.

13 Q. Do you recall anything about the specifics?
14 Can you give me any specific thing that you remember
15 seeing written on there?

16 A. Sure.

17 So one piece that comes to mind, calling his
18 hair nappy, highlighting the size of his lips, and
19 things like that.

20 Q. So somebody had -- somebody had written
21 these things on this individual's bio -- or on this

1 individual's biography that was posted on the wall; is
2 that correct?

3 A. Yes.

4 Q. How did -- how did you learn about this
5 incident?

6 A. And so -- I can't recall exactly who brought
7 it to my attention. It was likely -- and this has been
8 some time, but it was likely someone in the chain of
9 command. But after I was -- so the initial
10 notification, rather.

11 So I can't tell you who was the exact person
12 who notified me of this situation.

13 But soon thereafter the actual individual
14 did approach me and let me know that, you know, this
15 had happened as a follow up to using the chain of
16 command to communicate information. He did take time
17 to, you know, approach me and we were able to talk
18 about the situation, how he felt grateful that I was
19 in the position that I was in, that I had some of the
20 background that I had.

21 Again, noting me as a black man, a black

1 leader, a black officer, that that was something that
2 he likely would have never even brought up if I wasn't
3 in the position that I was in in that certain
4 situation.

5 So, as he communicated to me, that was
6 important to him and gave him the confidence to come
7 forward with that type of inappropriate behavior.

8 Q. Was he the person who initially -- this
9 black enlisted individual -- was he the person who
10 first reported this incident?

11 MR. MENDEZ: Objection. Foundation.

12 THE WITNESS: Yes, to my recollection. When
13 he discovered this document and behavior associated
14 with it, he was the one that came forward.

15 BY MR. CONNOLLY:

16 Q. And who did he report that to?

17 MR. MENDEZ: Objection. Foundation.

18 THE WITNESS: I can't recall exactly who he
19 brought it up to, but likely his chain of command. And
20 when I say chain of command, his direct leader within
21 a subordinate element.

1 BY MR. CONNOLLY:

2 Q. Do you recall the race of that direct
3 leader?

4 MR. MENDEZ: Same objection.

5 THE WITNESS: I do not recall.

6 BY MR. CONNOLLY:

7 Q. And then how would you have heard about this
8 incident?

9 A. And so I would have heard about this from a
10 combination of the chain of command, meaning his
11 direct supervisors as well as the individual himself.

12 Q. And do you recall any of the individuals who
13 told you about this?

14 A. No. Not by name.

15 Q. Do you recall the race of any of the
16 individuals who told you this?

17 A. No, I do not.

18 Q. If you -- you were the operations officer of
19 Seal Team 8; correct?

20 A. Yes.

21 Q. If the operations officer of Seal Team 8

1 were white, do you think that this investigation never
2 would have happened?

3 MR. MENDEZ: Objection. Foundation. Calls
4 for speculation and incomplete hypothetical.

5 THE WITNESS: I can speak from my experience
6 and I can say that what was important to this young
7 operator at the time was that he felt most comfortable
8 coming forward with that information because of --
9 that I was in that position at that time.

10 And so, again, it was communicated to me
11 that that was something that was important to him and
12 he felt most comfortable coming forward. In fact, he
13 said that he probably wouldn't have if I were not in
14 that position.

15 So I couldn't speculate as to what -- what
16 would have happened in another scenario. I would go
17 on to say I think that that speaks to why having a
18 diverse team would contribute to the likelihood under
19 that context of that communication happening and the
20 likelihood that an individual like the teammate I
21 described would bring that information to bear.

1 Q. Did he -- did this black enlisted individual
2 tell you that he would not have come forward -- if the
3 operation officer of Seal Team 8 at the time had not
4 been black?

5 MR. MENDEZ: Objection. Foundation. And
6 objection to incomplete hypothetical.

7 MR. CONNOLLY: It's not a hypothetical. I'm
8 asking what happened.

9 MR. MENDEZ: You may answer.

10 THE WITNESS: Just to clarify, was the
11 operation's officer an executive officer at the time?
12 I'm pretty sure in this capacity I was the executive
13 officer at the time, so I can't recall. I'm pretty
14 sure I was the executive officer in that period of
15 time.

16 But, if I remember the question correctly,
17 he did say that he came forward because he felt
18 comfortable coming forward because of me, in the
19 position that I was in at the time. And that he
20 probably wouldn't have come forward if that weren't
21 the case.

1 BY MR. CONNOLLY:

2 Q. When you say "the position that I was in,"
3 what do you mean by that?

4 A. I mean that -- I'm referring to being a
5 black officer in a leadership position at the Seal
6 Team as specifically as the executive officer, and
7 operations officer as well.

8 Q. So, is it -- I just want to make sure I have
9 it correct.

10 Is it your testimony that this black
11 enlisted individual told you that he would not have
12 reported what happened to him if the individual in
13 your position had not been black?

14 A. Again, he said that he felt very comfortable
15 coming forward in that he probably wouldn't have come
16 forward, if me, as the black XO, weren't in that
17 position.

18 Q. Did your race explicitly come up in the
19 conversation that you had with this individual?

20 A. Yes.

21 Q. And how -- what did he say?

1 MR. MENDEZ: Objection. Asked and answered.

2 BY MR. CONNOLLY:

3 Q. I know you said he felt comfortable. I'm
4 trying to figure out did he say, I felt comfortable
5 because you are black?

6 MR. MENDEZ: Same objection.

7 THE WITNESS: I can't remember the exact
8 words, but the -- but, again, as I recall, it was
9 because I was a black officer, a black Seal serving in
10 that position, he felt the trust and confidence and
11 most comfortable coming forward that he knew -- he had
12 confidence that the complaint would be taken
13 seriously. And also that -- yes, I already answered.

14 BY MR. CONNOLLY:

15 Q. If he had not come forward, would people in
16 Seal Team 8 not have learned about this incident?

17 MR. MENDEZ: Objection. Foundation. Calls
18 for speculation.

19 THE WITNESS: I think that's -- as I reflect
20 back, I think that others definitely did know what
21 happened because there were others involved in the

1 situation. And because the caricatures in this
2 incident was in public -- public meaning in the team
3 area -- so in an area that everyone could see that it
4 was likely that multiple people saw this caricature
5 and this adjusted -- this altered bio for some time.

6 As I recall, we couldn't figure out how long
7 it was up, but it was likely up for some time.

8 And a multitude of individuals were able to
9 see that and -- and said nothing.

10 And so that is -- that was one of the
11 concerning pieces about that situation. And I believe
12 that some of the lack of diversity within the element
13 likely contributed to the fact that no one else said
14 anything, that no one brought up the issue.

15 Q. That's my next question. Did anyone else
16 report this incident other than the black enlisted
17 individual?

18 A. He brought up the situation. He saw -- he
19 saw the documents and he made it known.

20 Q. He made it known to his superior?

21 A. As I recall.

1 Q. And you don't recall the race of the
2 superior?

3 MR. MENDEZ: Objection. Asked and answered.

4 THE WITNESS: I don't.

5 BY MR. CONNOLLY:

6 Q. Did he ever -- did this black enlisted
7 individual ever tell you that he would not have
8 reported this incident to his supervisor, except for
9 the race -- except for your race?

10 MR. MENDEZ: Objection. Asked and answered.

11 THE WITNESS: He said, again, I probably
12 wouldn't have even brought this up if you weren't in
13 the position that you were in, being a black officer
14 at the Seal Team.

15 BY MR. CONNOLLY:

16 Q. And you don't remember this person's name?

17 MR. MENDEZ: Objection. Asked and answered.

18 THE WITNESS: No.

19 BY MR. CONNOLLY:

20 Q. Did you ultimately conclude -- did -- was an
21 investigation conducted into what happened here?

1 A. Yes.

2 Q. And what was the result -- what were the
3 results of this investigation?

4 A. And so, because it has been some time, I
5 can't recall the exact sanctions that were levied on
6 the individual.

7 I believe, to the best of my recollection,
8 that it went to what we call Captain's Mast, not
9 judicial punishment. And so, as I recall, the
10 individual was subject to loss of pay and/or possibly
11 rank as well.

12 Q. And it was just one individual?

13 A. As I recall -- as I recall, only one
14 individual went to mast, as I recall. However, I -

15 Q. I apologize.

16 What does went to mast mean?

17 A. Captain's mast is what we call military,
18 nonjudicial punishment, under the uniform code of
19 military justice.

20 Q. Okay.

21 A. Punishment.

1 Q. Were there any other individuals involved in
2 this incident besides the one person who wrote it?

3 MR. MENDEZ: Objection. Asked and answered.

4 THE WITNESS: As I can best recall, the
5 number of individuals was likely more than one,
6 because of the time left up and the -- as I recall,
7 it's been some time again -- the handwriting that was
8 actually on the document itself. But because the
9 document itself was in the team room, the team area
10 for an extended amount of time, it's beyond reasonable
11 that numerous other teammates saw it and, as I recall,
12 discussed it, made jokes about it, talked about it,
13 but did not take it down or address the individual or
14 individuals that made it or with this particular
15 individual.

16 Q. Do you recall how long this biography was
17 up?

18 A. Again, I can't -- it's been some time. I
19 can't say. But it was, I believe, as I recall, for
20 potentially weeks or longer. But that would be a
21 speculation. I can't recall exactly how long.

1 Q. And approximately when did this incident
2 happen?

3 A. During my tour at Seal Team 8, so somewhere
4 between the years of 2011 and 2013, as I recall.

5 I couldn't tell you the exact months and
6 time frame.

7 Q. So more than 10 years ago?

8 A. Yes.

9 Q. And I want to make sure I have your
10 testimony correct.

11 Did this individual tell you that he
12 definitely would not have reported it to his
13 commanding -- to his superior, if you had not been in
14 the position that you were in?

15 MR. MENDEZ: Objection. Asked and answered.

16 THE WITNESS: So he told me that he felt
17 most comfortable, more comfortable, with bringing this
18 up to the chain of command and me because I was in the
19 position that I was in, and that he probably would
20 have never even brought it up if I wasn't in that
21 position. And that he had -- he knew, he felt

1 confident it would be handled quickly, thoroughly and
2 appropriately because I was in the position that I was
3 in, and specifically noting because I was who I was,
4 being a black officer and being a black CO in that
5 executive officer position.

6 Q. To be clear, he never said definitively I
7 would never have reported this period if you were not
8 in this position?

9 MR. MENDEZ: Objection. Mischaracterizes the
10 witness's prior testimony.

11 Objection. Asked and answered.

12 THE WITNESS: I can't recall the exact words
13 that he used. But, again, the sentiment, tone of the
14 conversation, as I recall, was that I probably -- I
15 being the individual -- probably wouldn't have brought
16 it up at all. And he did bring it up because he felt
17 confident that because there was a black XO at the
18 team, that this was going to be taken seriously and be
19 handled appropriately and within regulations.

20 Q. I want to go back to an earlier answer you
21 gave. You believe -- your belief that diversity is

1 important, you are not basing that belief on any
2 studies or reports that you have conducted; is that
3 correct?

4 MR. MENDEZ: Objection. Asked and answered.

5 THE WITNESS: My perspective on translating
6 diversity of all dimensions and kinds to the esprit de
7 corps, morale, culture and ultimately operational
8 effectiveness of our units, recruiting and retention,
9 are all formed on my experience and that path was the
10 focus of my formations and also one off, if you will,
11 but countless one-on-one interactions that I have had
12 with both civilians and active duty personnel
13 throughout my career.

14 Q. And you did not mention any studies in this.
15 And I'm not trying to be difficult, but I'm just
16 trying to figure out what forms the basis of your
17 opinion? And what I hear is it's your experience.

18 Now, what I'm trying to get at is, just
19 trying to narrow the field here to figure out where
20 this is coming from. How you formed your opinions.

21 So I understand your opinion about diversity

1 So to say one is more important than the
2 other, what element, I can't say I can do that. I
3 just know that the more that you have, the better you
4 are off as a leader and certainly as a member of that
5 team, the more elements of diversity you have.

6 Q. What would you say is a good level of
7 racial diversity in order to obtain the benefits of
8 diversity?

9 MR. MENDEZ: Objection. Foundation.

10 THE WITNESS: Again, to answer your
11 question, maybe I can ask a question back again. Can
12 you clarify what you mean by -- ask the question again
13 in terms of level or balance? Is it balance? I'm
14 sorry.

15 BY MR. CONNOLLY:

16 Q. What would you say is the best proportion of
17 racial diversity in order to achieve the benefits of
18 racial diversity?

19 MR. MENDEZ: Objection. Foundation.

20 THE WITNESS: Okay.

21 You asked specifically about racial

1 diversity. I have been talking about my opinion is
2 all diversity is important, and I wouldn't look for a
3 racial -- you said ratio again or a certain number
4 when it comes -- when you want to talk about making up
5 a team, I think it's important to have, again, the
6 most diverse team that you can. So it wouldn't land
7 on a percentage. I couldn't come up about a
8 percentage.

9 BY MR. CONNOLLY:

10 Q. Can you provide me an example of a mission
11 that failed because it did not have adequate levels of
12 the racial diversity?

13 MR. MENDEZ: Objection. Foundation. And
14 objection. Vague, as to mission that failed.

15 You may answer.

16 THE WITNESS: I would say that I can think
17 of a scenario where we struggled and we were certainly
18 not as mission effective, as operation effective when
19 it comes to diversity or lack thereof in some of my
20 formations. And I go back to the first example or an
21 earlier example during this discussion with my

1 teammate that was the subject of those racial
2 caricatures.

3 And so, the -- when we're deployed, our
4 deploy leaders have options on who they can utilize
5 for different missions, training, et cetera. And when
6 we had to -- and generally when we have to move
7 leadership positions around, when we have to take
8 folks offline because we're doing investigations,
9 that's taking time and focus away from what we need to
10 be focused on, which is many times training, operating
11 with our partners, working on our tactics, techniques
12 and procedures and so on.

13 And so, oftentimes we might not even be
14 offered the mission or chosen to go on a mission
15 because our leaders know that we are embroiled in
16 internal issues and investigations and things like
17 that.

18 And it kind of speaks to the trust that our
19 deployed leadership has in us, if we have these issues
20 both in training that can often bleed into different
21 deployed operational scenarios.

1 And so, it can be hard to quantify when
2 you're not even given the mission because of these
3 other -- baggage of these other issues that my
4 elements were dealing with.

5 I can say for sure that the time that it
6 took to do these investigations, the gossip, the --
7 you know, the emotional toll that it takes on the
8 individual, you know, particularly my one teammate
9 that I'm talking about in this particular scenario,
10 and everyone within the formation affects our
11 readiness and it affects our focus.

12 And so, in that way it actually makes us
13 less combat effective. Less combat effective and
14 really less relevant, as I said before, where many
15 times our leadership teams have options of who they
16 can use to partner with other foreign militaries to
17 partner or to go on different missions and objectives.

18 Q. So let's drill down here. You talked about
19 an example with your former teammate, you said?

20 A. Yes.

21 Q. Can you tell me all about this example?

1 This is not the biography on the wall thing; right?

2 A. Actually, I was referring to that scenario.

3 Q. So I guess when you say teammate, you are
4 referring to the enlisted black individual that came
5 to you?

6 A. Correct.

7 Q. All right.

8 So, let me then -- you spoke at length
9 generally, but can you provide a specific example of a
10 mission that failed because it did not have adequate
11 levels of racial diversity?

12 MR. MENDEZ: Objection. Asked and answered.
13 And objection, vague.

14 THE WITNESS: Again, I can speak to how the
15 most motorist teams or the most effective teams and --
16 again, in the situation I just described, our -- the
17 focus that those investigations and the drag on our
18 morale to come to the heart of what happened on that
19 -- what we call blue on blue incident, that teammate
20 on teammate assault, if you will, and how that
21 negatively affected our ability to may focus on our

1 tasking, potential for losing future mission taskings,
2 definitely made us less combat effective.

3 Oftentimes -- you know, I can think of
4 scenarios where if we don't train 9:00 to 5:00, the
5 reason why we are so effective is we are special
6 warfare and dare to say other other elements within
7 the military are because we put so much time in after
8 hours. And if an individual, like my teammate or any
9 other, doesn't feel like they are fully included in
10 the team, they are not going to seek help from those
11 same mentors if they don't believe that they -- if
12 they believe they are saying things like these
13 individuals did or writing about my teammate in this
14 situation.

15 Q. So you identified -- you referenced again
16 this investigation with the biography on the wall.
17 Can you provide another specific example of a mission
18 that failed because it did not have adequate levels of
19 racial diversity?

20 A concrete example on this date and this
21 situation. You're speaking generally, but I'm trying

1 to focus here and talk about specific examples.

2 Now, I've heard about this one example in
3 2013 in Virginia Beach. And now what I'm trying to
4 get at is I want to talk concretely and specifically
5 and facts and dates and people.

6 So, can you provide -- putting aside this
7 incident with the biography that we spoke about at
8 length -- can you provide a specific example of a
9 mission that failed because it did not have adequate
10 levels of racial diversity?

11 MR. MENDEZ: Objection. Form. Objection.
12 Asked and answered. Objection. Vague as to a mission
13 that failed. And objection, argumentative.

14 THE WITNESS: My response would be to answer
15 the question to clarify rather. When you talk about
16 mission failure, what does that mean?

17 You know, for me, in my experience, when we
18 talk about mission failures, it could be problematic.
19 Some would say, Hey, we are searching for a certain
20 individual, or we're trying to move an element from
21 Point A to Point B. And those can be narrow scenarios

1 most diverse teams are the most capable teams and that
2 the teams that were not diverse or were encumbered by
3 some of the challenges that come with having a lack of
4 diversity on the team, whether it be racial or
5 otherwise, were less prepared teams and didn't perform
6 as one.

7 BY MR. CONNOLLY:

8 Q. There you go.

9 Can you give me an example of when they did
10 not -- your teams did not perform as well because they
11 were not racially diverse?

12 MR. MENDEZ: Objection, asked and answered.

13 THE WITNESS: And so, again, those teams
14 certainly would have performed better if they weren't
15 encumbered by avoidable issues in terms of racial
16 discrimination. And, again, specifically in terms of
17 being best prepared to shoot, move and communicate,
18 because they spent the time on the range, they were
19 able to hone their tactics, techniques, and
20 procedures, and weren't dealing with these unfortunate
21 and avoidable distractions.

1 BY MR. CONNOLLY:

2 Q. And which team are you speaking of here?

3 A. You know, certainly my time at Seal Team 8
4 would be an applicable example of the scenario that I
5 just described.

6 Q. Any other examples of when the lack of
7 diversity has harmed -- the lack of racial diversity
8 has harmed your unit?

9 MR. MENDEZ: Same objections.

10 THE WITNESS: I'd offer that my time in
11 command as Seal Team 10, as I said before, I was the
12 lone black commanding officer, and at that time I was
13 leading primarily undiverse racially, in this case,
14 I'm talking about -- because there are multiple
15 dimensions of diversity -- and from my perspective I
16 was able to at least begin to cultivate that
17 background -- strengthen the initial trust they had
18 with my counterparts within our Somalian leadership
19 that we worked with in my deployment.

20 But I was, you know, by and large alone in
21 that regard. And so, the time that it took to develop

1 that trust and confidence -- you know, kind of say it
2 started with me, but certainly as the leader of that
3 team, it was happening at my level.

4 And I'm confident it began to trickle down.
5 But I think what's hard to quantify, but what I can
6 say is it would have happened more quickly if the rest
7 of my team was more diverse. In this case I'm talking
8 about diverse, specifically racial diverse, would
9 have, I believe, had the same effect faster at a more
10 grassroots level. Because I'm speaking leader to
11 leader -- senior leader to senior leader. But that
12 dynamic I described with having my Somalian
13 counterpart call me brother, seeing me as a brother,
14 because in our interactions later on he would tell me,
15 Hey, I have never seen anyone like you before. I
16 didn't know that was possible. Tell me about how you
17 gained the position that you did. Those types of
18 discussions and that type of unit cohesion certainly
19 didn't happen right away because of the lack of
20 diversity amongst my troopers as well.

21 And so I would off that as an example of

1 that.

2 BY MR. CONNOLLY:

3 Q. You said Seal Team 10 was not racially
4 diverse. Did I hear that right?

5 A. What I said is that -- what I meant to
6 communicate is that was -- it wasn't very racially
7 diverse.

8 Q. And how big was Seal Team 10? How many
9 people? Approximately.

10 A. I need to clarify.

11 Depending on where we were operating, the
12 numbers changed. So we have our kind of garrison
13 members. And then throughout our deployment cycle,
14 training cycle and before we deploy, we gain
15 additional elements that join those permeations, so
16 the numbers changed over time.

17 But a Seal Team in general is anywhere from
18 115 to 150 individuals, thereabouts.

19 Q. Do you recall how many black individuals
20 were on Seal Team 10, approximately?

21 A. I don't remember the exact number.

1 Approximately -- maybe two or three others,
2 potentially. That I can speak to.

3 Q. So less than 1 percent of Seal Team 10 was
4 black?

5 Do I have that right?

6 A. I don't do public math. I would say it's
7 reasonable.

8 Q. Okay.

9 A. To say but I couldn't speak to exact
10 numbers. As I recall, I'd have to reference something
11 else.

12 Q. Can you give me an example of how Seal Team
13 10 failed because of the lack of racial diversity?

14 MR. MENDEZ: Objection. Vague, as to
15 failed.

16 THE WITNESS: Again, I think that the
17 specifics we're talking about, the elements of
18 diversity, but if you want to land on specifically
19 racial diversity, that we lost time, precious time, as
20 we oftentimes only have a six-month deployment,
21 thereabouts, to accomplish certain goals. And the

1 lack of speed that it takes to develop unit cohesion
2 with our deployment elements and forces, and the time
3 it takes to motivate oftentimes our foreign partners
4 to train at a pace that they may not be familiar with
5 or comfortable with, pushing them past their comfort
6 zone, really adopting our recommendations, trying to
7 motivate and, again, develop that kind of intrinsic
8 aggressiveness was delayed and slowed because of some
9 of the intangible connection that was lacking amongst
10 the troopers. Certainly at the trooper level.

11 That at least did exist in terms of me being
12 in my position as commanding officer, again noting in
13 this case specifically my race was not replicated to
14 the same degree or at all potentially amongst the
15 troopers.

16 And so that whole process was -- certainly
17 didn't happen as I believe, as fast as it could have
18 if specifically our racial makeup was different. Or,
19 I should say, excuse me, if we were more diverse in
20 this case.

21 Q. So is it your position that if Seal Team 10

1 had been more racially diverse that you -- that Seal
2 Team 10 would have melded together with Somalia forces
3 quicker?

4 MR. MENDEZ: Objection. Mischaracterizes
5 the witness' testimony.

6 THE WITNESS: My position is that if the
7 more diversity that my team had of all the areas, of
8 all different facets, would have improved our
9 operational capacity. And certainly in this scenario
10 that you described, I think, would have contributed to
11 the speed with which we were able to still develop
12 cohesion and ultimately become a more effective unit.

13 BY MR. CONNOLLY:

14 Q. So, just wanted to make sure I have it
15 correct. Is it your view that if Seal Team 10 had --
16 had more racial diversity, that you could have
17 developed faster unit cohesion with Somali forces?

18 MR. MENDEZ: Same objection. Objection, and
19 objection asked and answered.

20 THE WITNESS: I think that if our settlement
21 agreement had more diversity of all areas to include

1 racial diversity that we could have run that phase of
2 unit bonding, unit cohesion and cooperation and mutual
3 trust and confidence much faster than we did.

4 Q. And what is the basis for your opinion?

5 A. My opinion is based on my experience and
6 certainly conversations with Somalian leaders and
7 leadership and then observing, you know, my team, in
8 and amongst my team and noting my personal
9 observations of these dynamics. Or how I formed my
10 opinion.

11 Q. How many more black individuals on Seal Team
12 10 do you think were needed in order to make the phase
13 of unit bonding happen faster?

14 MR. MENDEZ: Objection. Foundation. Calls
15 for speculation.

16 THE WITNESS: Again, I won't begin to speak
17 about numbers, because I don't think it's necessarily
18 about numbers, if you're asking for a specific number.

19 What I can say is that the more diverse our
20 team is or was, the better off, more effective, the
21 more prepared and more responsive it would have been

1 at the time and able to again react to the unknown.

2 BY MR. CONNOLLY:

3 Q. The two or three black individuals on Seal
4 Team 10, do you recall their names?

5 A. No.

6 Q. Did they interact better with their Somali
7 counterparts than the white individuals on Seal Team
8 10.

9 MR. MENDEZ: Objection. Foundation. Calls
10 for speculation.

11 MR. CONNOLLY: I'm asking about his
12 experience whether he saw it.

13 MR. MENDEZ: You're asking about two or
14 three other individuals and how they communicated with
15 other folks. That's the epitome of speculation, but
16 you can answer.

17 THE WITNESS: Could you repeat your question
18 again?

19 BY MR. CONNOLLY:

20 Q. The two or three individuals -- scratch
21 that.

1 The two or three black individuals on Seal
2 Team 10, do you believe that they interacted better
3 with their Somali counterparts than the white
4 individuals on Seal Team 10?

5 MR. MENDEZ: Same objection.

6 THE WITNESS: So, what I haven't mentioned
7 to this point is that we did -- when I was in command
8 of Seal Team 10, we did deploy to Somali. However, as
9 I recall, it's fair to say that all two or three black
10 individuals that were on my team were in Somali with
11 me at the time.

12 So what I'm saying is, I don't recall how
13 many, but I'm pretty certain -- pretty certain there
14 was only one other black operator with me in Somali
15 during that deployment, to the best of my
16 recollection.

17 Q. Did anyone ever tell you that this black
18 individual was bonding with Somali forces better than
19 the white individuals on Seal Team 10?

20 MR. MENDEZ: Objection. Foundation.

21 THE WITNESS: I can just speak to, again,

1 some of the conversations that I heard -- not heard,
2 that I had rather with my counterparts.

3 BY MR. CONNOLLY:

4 Q. And, respectfully, I'm not asking about --

5 MR. MENDEZ: Let the witness answer.

6 MR. CONNOLLY: I know.

7 BY MR. CONNOLLY:

8 Q. But, respectfully, I'm not asking about your
9 other conversations. I'm asking about -- let me
10 repeat the question.

11 MR. MENDEZ: Wait. Were you done with your
12 previous -- with that answer you were giving before
13 you got interrupted?

14 Please finish that before counsel asks
15 another question.

16 THE WITNESS: If you could, ask the question
17 again.

18 BY MR. CONNOLLY:

19 Q. Did anyone ever tell you that the black
20 individual on Seal Team 10 was interacting better with
21 Somali forces than the white individuals on Seal Team

1 10? Yes or no?

2 MR. MENDEZ: Objection foundation.

3 Objection to form.

4 THE WITNESS: What I can say is that the
5 conversations that -- conversations -- I received
6 input from my Somali partners as to the -- it was
7 powerful and meaningful for them to see me in command
8 of that team to interact with me and to know that in
9 talking about racial diversity in this case, that
10 America would put a black officer in charge of Seal
11 Team 10 and deploy them to Somali in support of our
12 mutual objectives.

13 That was something that resonated with them.
14 They told me this on multiple occasions, and I believe
15 that it set the foundation for cooperation up and down
16 the chain of command.

17 BY MR. CONNOLLY:

18 Q. Did anyone ever tell you that the white
19 individuals on the Seal Team 10 were not bonding with
20 the Somali forces?

21 MR. MENDEZ: Objection. Foundation.

1 THE WITNESS: I heard the question. I'm
2 thinking.

3 All of the conversations I recall that I had
4 focused on my interactions with my counterparts.

5 Q. So is the answer to my question no? Nobody
6 ever told you that?

7 MR. MENDEZ: Objection. Asked and answered.

8 THE WITNESS: Again, most of my -- most of
9 the -- the input that I received from my partners
10 focused on me and my interactions and, again, the
11 power significance of me being leader and commanding
12 officer of that team, and primarily of -- leading my
13 at least racially undiverse team.

14 MR. CONNOLLY: All right. Take a break.

15 (Whereupon, a recess ensued.)

16 MR. CONNOLLY: Back on the record.

17 BY MR. CONNOLLY:

18 Q. This experience you had in Somali where the
19 Somalian leaders were talking to you about your race,
20 do you know approximately what year that happened?

21 A. Yes. 2019.

1 Q. And which -- do you know the names of the
2 Somalian leaders that said this to you?

3 A. No. I couldn't pronounce them anyway. But
4 I don't recall the exact names of the leadership at
5 the time.

6 Q. How many conversations with these
7 individuals did you have where your race came up?

8 A. I couldn't give an exact number of
9 conversations that we had. Certainly more than one,
10 throughout my time in Somali.

11 Q. More than five?

12 A. I have -- I couldn't give an exact number of
13 conversations that we had. I wouldn't want to
14 misspeak here. But numerous conversations in my time
15 was small.

16 Q. More than five?

17 A. I would say probably more than five.

18 Q. Can you --

19 A. Yes. I'm sorry.

20 Maybe -- to add on to your earlier
21 questioning, so we would -- I would meet with my

1 counterparts on a daily and weekly basis. So it's
2 very difficult to talk about how many conversations we
3 had over, you know, the six months and we'd want to
4 daily -- sometimes daily conversations.

5 Q. Is there one conversation in your mind that
6 you maybe remember the specifics of what these
7 individuals said?

8 A. You mean the time of day or --

9 Q. No. Like the exact or approximate words
10 they said to you.

11 Can you pick out one conversation and tell
12 me how the conversation went?

13 MR. MENDEZ: Objection to form.

14 THE WITNESS: So a conversation kind of
15 like, Hey, brother, you -- I haven't seen you before.
16 Was training more difficult for you, were some
17 questions that came up. Have you always -- so there
18 was interest in my career. How long have you been a
19 Navy Seal? How long have you been in command of Team
20 10?

21 Or where are you from? Biographical

1 information, they want to know about me for sure.

2 It was just-- it encompassed some of the
3 typical -- I would a typical get-to-know-you questions
4 and things.

5 And the like.

6 Q. And what specifically did they say to you
7 about your race?

8 A. Some of the things that were discussed were
9 -- you know, they questioned me about and they would
10 discuss -- they would bring up were just why there
11 aren't more leaders that look like you and share your
12 background.

13 Will you be coming back was, I remember, a
14 question that came up in a discussion that came up.
15 And I think that was because of that connection that
16 we formed, or at least was powerful for them or
17 amenable for them that they append to their number
18 than anyone wanting to hang around longer and talk a
19 little bit longer with me than others in our meetings
20 and in-depth reactions and so on.

21 So I'm just trying to describe a general

1 sense of the kind of gravitation, if you will, towards
2 me.

3 Q. And you said -- I think I wrote it down.
4 Looked like you and have your background.

5 Did they say -- they use the word black?

6 A. Yes, as I recall.

7 Q. And what specifically did they say to you
8 when they used the word black?

9 A. They just answered -- they would ask me and
10 be curious about, again, all aspects of my career to
11 that point. Curious about my experience. Curiosity
12 about why there weren't more. I could go on.

13 Q. But what you're describing are things that,
14 you know, aren't necessarily related to race. They
15 could be asking you where are you from, where did you
16 go to school, that sort of thing.

17 I'm trying to figure out what, when they
18 used the phrase -- I'm trying to figure out why race
19 was important to them. So when they used the
20 phrase -- when they used the word black, what did they
21 specifically say to you about your race?

1 MR. MENDEZ: Objection. Asked and answered.
2 Objection. Mischaracterizes the witness's testimony.
3 Objection. Form and compound.

4 THE WITNESS: And so, when my race came up
5 and it did certainly on, as I recall, multiple
6 occasions. Black and my background, what I look like
7 was in connection with deploying there to that
8 location, meaning that there had been previous
9 commanders that didn't look like me, didn't share some
10 of the same background as I did. And so just noting
11 that and them reflecting on me being the first and,
12 again, how new it was to them and how I remember
13 reflecting on how it was able to just get me, I
14 believe, more access and placement to them as
15 individuals, you know, as they have -- they call them
16 entourages. And so, you know, like we do, we being
17 Americans oftentimes travel with large groups and so
18 on. So the ability to actually penetrate those
19 different groups aids in the light that that seemed
20 not to be -- I didn't see it as an obstacle of any
21 significance.

1 Again, drawing on that anchor of race as a
2 discussion.

3 Q. Did they ever tell you that they trusted you
4 more because you were black?

5 A. I can't recall -- I can't recall them using
6 those exact words.

7 Q. Did they ever use similar words to convey to
8 you that they trusted you more because you were black?

9 A. I think that my takeaway from our
10 interactions and discussions was that -- that was
11 something that was meaningful to them because when
12 they physically take you by the arm, you know, grab
13 you and touch you, whisper in your ear, get close,
14 Hey, brother, it's good to see you. I'm glad that
15 you're here. We're going to work well together.

16 And in conversations and things that we had,
17 that was -- that was explicitly said. And so -- so
18 it's a -- I'm sorry, go ahead.

19 I've answered the question.

20 Q. But they never explicitly told you that they
21 trusted you more because you were black?

1 MR. MENDEZ: Objection. Asked and answered.

2 THE WITNESS: I can't recall them saying the
3 exact words that you just said in that light.

4 But my takeaway from our -- not takeaway.
5 My feeling and sense from my experience was that that
6 was the case in that they -- I definitely got the
7 sense of the willingness to work more together. I
8 mean, again, they did say specifically, Hey, we ain't
9 never that before. They definitely said we're very
10 proud of you. I do remember that.

11 They truly didn't know me before that
12 deployment, but words and to that effect certainly did
13 come up in our discussions in deployment.

14 Q. I want to make sure I get this right.

15 They never explicitly told you or conveyed
16 to you that they trusted you more because you were
17 black. Instead, it was a feeling and a sense that you
18 got from your interactions.

19 Do I have that correct?

20 MR. MENDEZ: Objection, form. Objection,
21 asked and answered.

1 THE WITNESS: What I can say is I don't
2 recall them saying the explicit words, Captain Birch,
3 we trust you.

4 Can you repeat the question one more time,
5 please? Appreciate it.

6 BY MR. CONNOLLY:

7 Q. Yes.

8 They -- these leaders -- never explicitly or
9 verbally conveyed to you that they trusted you more
10 because you were black. Instead this was a feeling
11 and sense that you got from your interactions with
12 them.

13 Do I have that correct?

14 MR. MENDEZ: Same objections.

15 THE WITNESS: I think that -- the foundation
16 and -- my response is I think the foundation to build
17 trust, and that trust was more easily gained from my
18 background and my appearance. And that was expressed
19 probably explicitly. Probably implicitly, if I'm
20 getting the words correctly, as well as both verbal
21 and nonverbal means.

1 I think my opinion is that personal
2 interactions are some things are stated, sometimes
3 things aren't stated. And certainly you can, in my
4 experience, gauge someone's intent and certainly trust
5 level through those different ways.

6 BY MR. CONNOLLY:

7 Q. But sitting here today you cannot recall
8 these leaders ever conveying to you explicitly that
9 they trust you more because of your race?

10 MR. MENDEZ: Same objection.

11 BY MR. CONNOLLY:

12 Q. Is that correct?

13 MR. MENDEZ: Same objections.

14 THE WITNESS: It's been some years. I can't
15 say yes or no, if those exact words were used. I can
16 say for certain that is the -- that was the ultimate,
17 I would say, objective that was achieved because of my
18 appearance and that's comes from my interaction with
19 them throughout that time. And from my discussions
20 with them.

21 BY MR. CONNOLLY:

1 Q. Did these leaders, Somalian leaders, ever
2 say that they would not have worked with the United
3 States if the individual in your position were white?

4 MR. MENDEZ: Objection. Foundation.

5 THE WITNESS: So, to my knowledge, the exact
6 words that you said, I don't recall them being said in
7 that way. What I can say is that it was positively
8 noted and accepted by them and received by them,
9 arriving as the commander of that task force, uniquely
10 being the person I am and having the diminished
11 diversity that have over time.

12 BY MR. CONNELLY:

13 Q. Do you think the Somali leaders would not
14 have worked with the United States if you were not
15 white -- or if you were white?

16 MR. MENDEZ: Objection. Foundation.
17 Objection. Asked and answered.

18 THE WITNESS: What I can say is that prior
19 and subsequent commanders were white, and so they did.
20 I would say that that's -- as a matter of fact, that's
21 what I would say.

1 BY MR. CONNOLLY:

2 Q. So they did? These Somali leaders did work
3 with other white officers of the United States;
4 correct?

5 MR. MENDEZ: Objection. Asked and answered.

6 THE WITNESS: Correct.

7 BY MR. CONNOLLY:

8 Q. Do you believe -- scratch that.

9 Do you believe that racial diversity is
10 critical to unit cohesion?

11 MR. MENDEZ: Objection. Foundation.

12 THE WITNESS: I believe that diversity is
13 very important to cohesion and to include racial
14 diversity, which is certainly part of one specific
15 type of diversity. I know this because throughout my
16 career many people, many of my sailors, teammates,
17 even peers have noted that for them, at least, it was
18 important to have an individual with commonalities
19 that they shared throughout their background. That
20 covers kind of the span of diversity. You know,
21 certainly, racial diversity, but other diversity.

1 Where you were born, your upbringing, shared
2 experiences and things like that, kind of different
3 points of connection. The more points of connection
4 that a leader can have, the better able you're -- the
5 better prepared you are to, I believe, lead a team and
6 get that team rowing in the same direction, if you
7 will, to achieve objectives.

8 BY MR. CONNOLLY:

9 Q. Can you give me an example in your career
10 when racial diversity helped unit cohesion?

11 A. Certainly.

12 It's been extremely helpful here at the
13 United States Naval Academy as senior mentor to a
14 battalion's worth of midshipmen who many come from all
15 walks of life to have just a very wide degree of
16 diversity that makes up those different individuals.
17 On a daily and weekly basis they'll come into my
18 office noting that, Hey -- not say Hey. They say,
19 Captain, Sir, I have never seen you before.
20 Oftentimes they say I have never seen you here before.
21 And then from there it's just, I think I'm interested

1 in joining your community. I didn't think it was
2 possible to achieve what you have, because I haven't
3 seen you before. That's important to some people.

4 And many have noted, you know, throughout
5 their time here over the last year, they've come and
6 said, Hey, I was thinking about leaving the academy
7 because this is a difficult, challenging experience,
8 but I've remained on board because I like your
9 leadership style. I appreciate your background and
10 your roots, if you will. And, you know, again to
11 include being a black man, that's come up in
12 conversations multiple times.

13 And so to me, many of those call them
14 at-risk individuals, but those different individuals
15 have expressed that they initially didn't feel part of
16 the team before I came on board. And in those
17 conversations, not just me but others as well, they
18 would note the other diverse leaders within my
19 battalion have been a source of strength and -- it's
20 been a positive contributor to their retention for
21 them staying on board and remaining a midshipman and

1 try to reach graduation and reach that goal line.

2 Q. Can you identify a specific individual who
3 you've had these conversations with?

4 A. I mean, I have 750 mids and not just in my
5 battalion, but throughout the brigade, so the other
6 battalions as well. And we've had tons of
7 conversations. I have had numerous conversations with
8 them over the last year that are like I described.

9 Q. Please name one.

10 MR. MENDEZ: Mike, I don't -- I just want to
11 caution. I don't want to bring other, like, current
12 midshipmen into this case.

13 MR. CONNOLLY: Yes. But we're under the
14 Protective Order.

15 MR. MENDEZ: Okay. Understood. But I just
16 wanted to flag that for the record.

17 MR. CONNOLLY: Okay.

18 THE WITNESS: I mean, I'm personally not
19 comfortable bringing the names of 18 to 21 year old
20 noncommissioned officers into this discussion, so I
21 mean -- they are not children. But, again, they are

1 not commissioned officers yet, so this is not -- I
2 don't think that's appropriate.

3 As I would be identifying different mentees
4 that I have in my position as battalion officer, I'm
5 not comfortable noting names of midshipmen who I
6 mentor who have expressed their -- you know, shared
7 personal stories and their personal feelings and
8 experiences from their time here, both at the academy
9 and before they got here, I'm uncomfortable with that.

10 BY MR. CONNOLLY:

11 Q. All right. Well, let's identify an
12 individual and just use initials for now.

13 Let's call him John Doe.

14 A. Okay. We can go with John Doe.

15 Q. Okay.

16 A. Or Jane Doe.

17 Q. But I want this person to be a real person
18 in your mind. I want to talk about a real thing that
19 happened.

20 So can you describe to me a real
21 conversation with an individual and let's call him

1 John Doe, and tell me how your race came up.

2 A. Sure.

3 So I'm thinking of one individual or, as I
4 said, multiple individuals. It came up because I
5 checked in, began this tour about a year ago. And
6 ahead of that tour my biography was circulated across
7 the brigade. And so, my soon-to-be formation
8 recognized that this was the new leader that they were
9 getting. And that, again, sparked conversations.

10 They would say, Hey, Captain Birch. When
11 your bio was circulated, your biography was circulated
12 around, we started to talk about, Wow, we've never had
13 a Navy Seal Battalion Officer before.

14 We also noted that, you know, you're from
15 Maryland. And there are a lot of -- there's a
16 significant number of local midshipmen that attend the
17 Naval Academy at least in Virginia, Maryland, and DC.
18 It was notable to them.

19 They noted how, you know, I was a former
20 boxer here in the academy.

21 They certainly noticed that I was black.

1 And for many of them -- most of them I was the first
2 black Navy Seal they had ever seen, if they had ever
3 seen a Seal at all. So it's kind of that really
4 started the conversation, and they were excited to see
5 me.

6 And there were numerous points of my
7 background that resonated with them.

8 Once this individual or specifically
9 numerous individuals, because it has replicated
10 numerous times over the last year, they would sit down
11 and say, you know, we want to come to the academy, but
12 they didn't see very many people that were -- that
13 looked like me here. And, you know, but I took that
14 leap. They noted that when they did --

15 Q. I apologize to interrupt. You're saying
16 they. I want to make sure, are we talking about one
17 person? Can you use he or she?

18 A. I can use he or she. I'm using they because
19 this scenario that I'm describing, you said think of
20 one person and we'd use Jane Doe, John Doe, this
21 conversation has happened multiple times. So that's

1 why I'm using they.

2 Q. Okay.

3 A. And so this individual and individuals would
4 talk about how it was comforting when they checked in
5 on induction day and began their foundational training
6 during plebe summer to see other people of color, both
7 in brigade and certainly as officer leadership.
8 Specifically when the conversations, you know, steered
9 towards me and my role as their leader as a battalion
10 officer, they said, Wow, I read about the Seals. I
11 was kind of thinking about it, but I didn't think I
12 could do something like that.

13 And so they wanted to know about my
14 experience. They wanted to know did I have unique
15 challenges and/or obstacles that I experienced because
16 -- specifically because of my race that others hadn't
17 experienced.

18 And it was the gateway to conversations
19 about how they could be successful as midshipmen here
20 at the Naval Academy, drawing from my experience and
21 in lessons learned.

1 Q. Putting aside your time with the Naval
2 Academy, can you give me a time in your career when
3 racial diversity helped unit cohesion?

4 MR. MENDEZ: Objection. Asked and answered.

5 THE WITNESS: I think that every unit that I
6 have been a part of and Naval Special Warfare, from my
7 time as Seal Team 2, 4 and throughout my career,
8 diversity has helped unit cohesion specifically as
9 many times the one-off black officers -- talking about
10 racial diversity -- I was the sole beacon, if you
11 will -- not to use those kind of words -- but I was
12 the leader that they looked to and drew strength from
13 because there was no one else that looked like them.
14 They told me this throughout my career.

15 And because I was that, you know, foundation
16 for them, it helped the entire team, you know, from
17 the squad platoon, task unit, team level where I
18 didn't have individuals who kind of felt like they
19 were off on their own. I was able to help them feel
20 like they were part of the team.

21 It improved our command climate, because

1 instead of going off and doing their own thing, you
2 know, after hours or even during training day, they
3 were more inclined and motivated and felt comfortable
4 to remain within the spaces to fully integrate, but
5 just to buy into being a part of a team where they
6 were one of a few.

7 Q. These individuals you talk about, can you
8 give me their names?

9 A. No.

10 Q. Why can't you?

11 A. I don't feel comfortable listing the names
12 -- not that I can remember all of them -- but listing
13 the names of all the black or persons of color
14 throughout my career.

15 Q. I want to be clear. Can you identify by
16 name individuals who you were just speaking of --

17 MR. MENDEZ: Objection. Asked and answered.

18 BY MR. CONNOLLY:

19 Q. That said that they felt comfortable because
20 of your race?

21 MR. MENDEZ: Objection. Asked and answered.

1 THE WITNESS: No, I can't do that right now.

2 BY MR. CONNOLLY:

3 Q. And is the reason you cannot do it by name
4 is because you do not remember their names?

5 A. I certainly don't remember everyone's name
6 that I have interacted with throughout my career.

7 Q. Do you remember anyone's name that would fit
8 the story you just told?

9 MR. MENDEZ: Objection. Asked and answered.

10 THE WITNESS: I do, but I don't feel
11 comfortable providing those names. And/or name.

12 BY MR. CONNOLLY:

13 Q. Why not? They are not at the Naval Academy
14 anymore; right?

15 A. Are you talking about -- I thought you were
16 asking about my time in the Seal duties.

17 Q. Yeah.

18 A. Right. Like giving you other Seals names.

19 Q. Why not?

20 MR. MENDEZ: Objection. At this point
21 you're getting close to harassing the witness. You

1 know, he responded to your questions, and that's that.

2 MR. CONNOLLY: I'm trying to figure out so
3 we can move forward --

4 MR. MENDEZ: I don't see why other names of
5 Navy Seals who are not involved in this case are
6 relevant to this case.

7 MR. CONNOLLY: Because this whole deposition
8 I have been trying to figure out examples of specific
9 things that happened, and all I just keep hearing are
10 general stories.

11 MR. MENDEZ: Captain Birch is here to
12 provide testimony during this deposition about his
13 personal experience, and he is responding to your
14 questions.

15 MR. CONNOLLY: But he is not giving me
16 answers that I want.

17 MR. MENDEZ: This deposition is not about
18 other individuals and their experiences.

19 MR. CONNOLLY: If he's going to come in here
20 and testify about what other individuals are telling
21 him about their experience, I think I'm entitled to

1 those names, or we need to figure something out.

2 MR. MENDEZ: He's testified he's not
3 comfortable sharing those names. If you have any
4 concern, we can handle that after the deposition.

5 THE WITNESS: At this time, can I make a
6 comment?

7 BY MR. CONNOLLY:

8 Q. Sure.

9 A. I am very comfortable saying this. That
10 many of these stories are very deeply personal and,
11 you know, wrought with emotion. And, frankly, I'm
12 comfortable sharing my story. That's my decision.
13 But I'm not going to make that decision for people
14 that look to me, trusted me, over my career and I
15 mentored throughout my career.

16 And so it's not my place to bring them into
17 a public case, as I understand this. And shed light
18 on something that they didn't choose to or have a say
19 in bringing to the public.

20 BY MR. CONNOLLY:

21 Q. I understand.

1 So you have -- this is something that we'll
2 have to figure out -- but you know individuals who
3 have told you that their -- your race was important to
4 them in their military experience, and you do not feel
5 comfortable giving their names. I just want to make
6 sure I have the record correct.

7 MR. MENDEZ: Objection. Argumentative and
8 harassment. Objection, asked and answered.

9 THE WITNESS: Yes. As I just said, I'm not
10 comfortable providing specific names for deeply
11 personal issues and experiences for this case.

12 BY MR. CONNOLLY:

13 Q. Okay. In your experience, is racial
14 diversity critical to the validity of the Navy?

15 MR. MENDEZ: Objection. Foundation.

16 THE WITNESS: Well, I can't speak to the big
17 Navy, but I can speak for my experiences. And
18 certainly the special operation teams I have been a
19 part of, and diversity of all kinds definitely make us
20 more capable and more lethal.

21 BY MR. CONNOLLY:

1 Q. Can you give me an example in your career
2 when racial diversity helped the validity of the
3 mission?

4 Can you give me a time in your career when
5 racial diversity helped the lethality of the
6 commission -- of the mission?

7 A. And so we can -- many words are
8 interchangeable when we talk in terms of mission
9 effectiveness, more capable, more lethal. And I think
10 again the most -- one of the most relevant and most
11 recent examples for me was my time deployed as task
12 force commander in Somali. Working with my Somalian
13 East African partners and the -- again some of the
14 narrow diversity because -- but narrow racial
15 diversity and how it contributed overall to the
16 success, effectiveness, or lethality of my work at
17 that time.

18 Q. And how did -- and to save time, when you're
19 referring to Somali, this is the story we've been
20 talking about with the Somalian leaders and that sort
21 of thing; is that correct?

1 A. Yes.

2 Q. Can you give me an example in your career
3 when the lack of racial diversity undermined unit
4 cohesion?

5 MR. MENDEZ: Objection. Asked and answered.

6 THE WITNESS: I believe that at different
7 points in my career when teammates, those who have
8 worked for me have faced not just racism but just poor
9 working conditions and unhealthy environment, when
10 they face an unhealthy environment from -- you feel in
11 the blank. Harassment, basically not respecting our
12 core values of any kind, poor treatment, I think that
13 an extension of that many times was because the units
14 were undiverse, meaning there were very few if no
15 others for those individuals whether it be another
16 person of the same race, another person of the same
17 gender, et cetera. Because when you have more diverse
18 teams, it's more likely there are individuals that
19 have that shared common experience and can -- it
20 decreases the likelihood that those things will happen
21 and specifically if they do happen, that they will

1 actually be addressed, because they'll feel more
2 confident and comfortable in expressing their
3 displeasure.

4 Q. Can you give me a specific example of when
5 this happened?

6 MR. MENDEZ: Same objection.

7 THE WITNESS: I've already provided examples
8 in terms of what individuals have felt more
9 comfortable coming forward because of my racial
10 diversity.

11 There are other examples in my career. I
12 can think of times when females have communicated to
13 me that they were less likely to report assaults or
14 working conditions and treatment because they were a
15 one-off within my team.

16 So as I understood your question, when a
17 lack of diversity has been detrimental to the team, I
18 think that those are situations -- you asked for
19 specific examples -- that type of scenario has
20 happened. I have observed that it happened numerous
21 times throughout my career.

1 Q. And I'm not asking about gender diversity.
2 I'm asking about have you ever seen a situation where
3 the lack of racial diversity undermined unit cohesion?

4 MR. MENDEZ: Objection. Asked and answered.

5 THE WITNESS: Yes.

6 BY MR. CONNOLLY:

7 Q. And when did you see this example?

8 MR. MENDEZ: Objection. Form and compound.

9 THE WITNESS: Can you ask the question
10 again? I'm asking you to repeat it again because I
11 feel like you're asking the same question over and
12 over.

13 BY MR. CONNOLLY:

14 Q. Can you give me a specific time in your
15 career when the lack of racial diversity undermined
16 unit cohesion?

17 MR. MENDEZ: Objection. Asked and answered.

18 THE WITNESS: Yes, I believe I've provided
19 that example. Because at multiple points in my career
20 there have been individuals that felt most comfortable
21 as communicated to me in working in a diverse team.

1 Oftentimes because they came from very undiverse
2 environments. And so they had a more inherent trust
3 and confidence in those that shared more commonalities
4 with their teammates and leadership teams.

5 MR. CONNOLLY: All right. Should we take a
6 break for lunch?

7 MR. MENDEZ: How much time do you need?

8 MR. CONNOLLY: 45 minutes.

9 (Whereupon, a recess ensued.)
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MR. CONNOLLY: Back on the record.

BY MR. CONNOLLY:

Q. Welcome back.

I would like to hand you what I am marking
as Exhibit 2. It's a document called "Remain
Optimistic About Racial and Gender Progress."

Take your time to skim that, and when you're
ready to chat, please let me know.

(Exhibit Number 2 was thereupon marked for
identification.)

MR. MENDEZ: Do you happen to have a copy?
If not, totally fine.

MR. CONNOLLY: I do.

MR. MENDEZ: Thank you.

BY MR. CONNOLLY:

Q. Did you write this article?

A. Yes, I did.

Q. Do you know what publication it was printed
in?

A. Yes. It was published in "Proceedings."

1 Q. Why did you write this article?

2 A. I wrote this article because I felt that my
3 experience and certainly in my position I could offer
4 a unique perspective on what it's like to be a member
5 of the military certainly, within the Seal team at the
6 time.

7 Yes.

8 Q. If you look down towards the second to last
9 paragraph -- I'm sorry, third to last paragraph -- the
10 sentence starts --

11 A. Excuse me, first page?

12 Q. On the first page, sorry.

13 It starts, "On reflection, my personal
14 experiences suggest that racist sentiments are more
15 prevalent than some would like to admit. As a trainee
16 at basic underwater demolition seal training, BUDS, a
17 senior seal captain observing training called out the
18 only other black seal candidate and me, How are my two
19 little cookies doing, he asked."

20 Did I read that correctly?

21 A. Yes.

1 Q. Did the event that you described happen?

2 A. Yes.

3 Q. Who was the senior Seal captain that said to
4 you "how are my two little cookies doing"?

5 A. I don't feel comfortable providing that
6 name.

7 Q. Why do you not feel comfortable providing
8 that name?

9 A. Because that individual -- I believe it's
10 possible that they could see it as an attack on them
11 as a person or it could be construed for them and/or
12 their family that that individual had a persistent
13 behavior of racist -- persistent habit of racist
14 behavior and the negative things that could come from
15 that.

16 And while this interaction -- you know, the
17 statement was inappropriate and doesn't mean I don't
18 care for this person, and I'm not inclined to offer
19 their name in that way.

20 Q. And to be clear, you do know this
21 individual's name; correct?

1 A. Yes, I do.

2 Q. But you will not provide -- you will not
3 identify that person to me; correct?

4 MR. MENDEZ: Objection. Asked and answered.

5 THE WITNESS: Not at this time.

6 If I may go on to say for the record, I mean
7 I would have mentioned their name here in the article
8 if I thought that the name was important. To me it
9 was important that it actually happened.

10 BY MR. CONNOLLY:

11 Q. In the next paragraph you say "Midway
12 through my career, a senior enlisted leader, a combat
13 mentor and idol to many in my unit announced; 'I am a
14 racist bastard, but I will always support you.'"

15 Did I read that correctly?

16 A. Yes, you did.

17 Q. Did that happen as you described it?

18 A. Yes.

19 Q. Who was the senior enlisted leader that said
20 "I am a racist bastard, but I will always support
21 you"?

1 A. I don't feel comfortable offering that name
2 now.

3 And I'll offer again when I wrote that
4 article, it was written in such a way that none of the
5 individuals involved could be personally identified.
6 I did that with intention.

7 Q. Do you know the name of this senior enlisted
8 leader?

9 A. Yes, I do.

10 Q. The next paragraph at the bottom of page 1,
11 you say, "Despite these experiences, I have found that
12 most in uniform with whom I have served do not
13 subscribe to or accept these sentiments."

14 What did you mean by that?

15 A. What I meant is that throughout my career
16 that I've experienced racism, I have observed racist
17 behavior. But my words were meant and I believe that,
18 and the reason I wrote it, is to remind everyone
19 particularly at the time and the context of the George
20 Floyd death that many, if not most, that are in the
21 military that I have served with are patriotic good

1 people who believe in our core values and act that way
2 every day. And so I wouldn't -- part of the reason
3 for writing the article and sharing some of those
4 experiences is so that, as they say, we weren't
5 throwing the baby out with the bath water in the
6 public to do so in terms of the actions of a few.
7 Paint that picture for the whole formation.

8 Q. Have you ever experienced racism in the
9 military?

10 A. Yes.

11 Q. Can you please provide me with the examples
12 of when you experienced racism in the military?

13 A. Yes. Some examples, but not limited to,
14 would be the most stereotypical jokes you can imagine,
15 asking me if I eat certain foods, if I liked certain
16 types of music. Other, you know, personal habits and
17 things like that.

18 I've been questioned on was BUDS easier for
19 me. Or was the -- were the standards adjusted so that
20 I could make it through.

21 I've been questioned whether my rank and

1 position was solely achieved because of my race.

2 Paraphrasing just to provide a politically palatable
3 individual in a senior position on an elite team. And
4 so those things, as just a few examples, were levied
5 upon me at points throughout my career.

6 Q. Can you please identify some of these
7 individuals who you have -- these individuals who have
8 expressed racist views or taken racist actions against
9 you?

10 MR. MENDEZ: Objection form. Objection
11 compound.

12 THE WITNESS: So I do remember specific
13 individuals who have exhibited racist behavior towards
14 others and towards me throughout my career.

15 BY MR. CONNOLLY:

16 Q. And what are their names?

17 A. I'm not going to provide names.

18 But I will say on record that at times that
19 behaviors of those individuals was addressed at the
20 time. Sometimes it was addressed on a one-on-one
21 basis, sometimes it was addressed through the chain of

1 command. And sometimes it wasn't addressed at all,
2 which are missed opportunities that I regret.

3 I will go on to say that it's been an
4 opportunity, as I've gained rank and experience within
5 the teams, that I have given confidence to others,
6 speaking about my experience in the past. Times when
7 I've done a good job about stopping this type of
8 behavior, and times when I haven't done as good of a
9 job. So sharing those experiences with others within
10 my team and other teams, and certainly here at the
11 Naval Academy, I believe is setting up our future
12 leaders for success and giving them the confidence to
13 handle these issues as they -- as they come about
14 handling them well.

15 Q. Why will you not provide to me the names of
16 the individuals who expressed racist views or took
17 racist actions against you?

18 MR. MENDEZ: Objection. Asked and answered.
19 Objection. Compound form.

20 THE WITNESS: Yes.

21 So, my intent isn't to call anyone out by

1 name. My personal views are that, again, throughout
2 my career, I've handled these issues. And many times
3 those have been held accountable for that improper
4 behavior, sometimes they weren't held accountable.

5 And that's the past. So I had my opportunity
6 to address them, I addressed them when I could at the
7 time. Sometimes well, sometimes not well.

8 From here, I'm just focussed on learning
9 from those experiences and educating and supporting
10 others as -- if and unfortunately they have to deal
11 with the situations, to best prepare them. But my
12 intent is not to go on a witch hunt or hold the
13 individual accountable long after these
14 transgressions, these situations were -- took place.

15 Q. You've mentioned that individuals have
16 questioned whether your rank and position was achieved
17 because of your race. Can you identify the
18 individuals who have made those statements to you?

19 A. I can, but I won't.

20 Q. Putting aside their identify for now, how
21 did it make you feel when people made those statements

1 to you?

2 A. I think that when those statements were
3 received by me, certainly made me feel like I was not
4 a part of the team and that many times that I was
5 unwanted and that my contributions, you know, weren't
6 valued. And at times questioned my career choice.
7 But -- I shouldn't say that -- I should go on to say
8 and it aligns with some of the things that I have
9 heard from mentoring midshipmen as well and that was
10 some of the things that I've experienced.

11 They, in their -- in the junior portion of
12 their career have experienced, you know, to a degree
13 as they start to begin their journey. And so, again,
14 it offers -- I offer and I believe my experience, my
15 diverse experience, offers -- has built me to be
16 someone who is in a lot of ways tailor made to assist
17 them as they navigate some of these challenges
18 throughout their career.

19 Q. Back to your earlier paragraph where you
20 said, "I have found that most in uniform with whom I
21 have served do not subscribe to or accept these

1 sentiments."

2 A. If you could, can you reference which
3 paragraph you are referring to?

4 Q. I'm sorry. Bottom of page 1.

5 A. Thanks.

6 Q. You say, "I have found that most in uniform,
7 with whom I have served, do not subscribe to or accept
8 these sentiments."

9 When you say sentiments, are you referring
10 to racist sentiments?

11 A. Yes. In addition, in the context of, you
12 know, both overt racism and also more subtle or
13 nuanced type of ignorance, if you will.

14 So if I can give an opportunity to what I
15 meant by sentiments, it would include that as well.

16 Q. Got it. And is it still your view that most
17 in uniform with whom you have served do not subscribe
18 to or accept racist sentiments either explicitly or
19 implicitly, as you've put it?

20 MR. MENDEZ: Objection to form.

21 THE WITNESS: I still agree with the

1 sentiments of this article that I wrote.

2 BY MR. CONNOLLY:

3 Q. Same paragraph you said, "A white alumnus
4 from the academy, Class of 1958, inspired me to apply
5 to the Naval Academy."

6 A. Um-hum.

7 Q. Will you say who that person is?

8 A. If given an opportunity to call the
9 individual and get their permission, I would.

10 Q. But sitting here now you will not?

11 A. Correct.

12 Q. Second page you say -- at the top of second
13 page you write "It was a white female Naval Academy
14 classmate, who helped me to swim and provided a
15 foundation to succeed at BUDS." Is that true?

16 A. Yes.

17 Q. Will you tell me this woman's name?

18 A. No, not at this time.

19 Q. Down the second page you say -- in the
20 middle, you write, "It clearly is possible to succeed
21 in our Navy regardless of race."

1 Do you still believe that?

2 A. Yes, I do.

3 Q. Turning back to the senior Seal captain who
4 said, "How are my two little cookies doing", did you
5 report this individual?

6 A. I did not.

7 Q. Do you believe that what the senior Seal
8 captain did was a UCMJ violation?

9 MR. MENDEZ: Objection. Foundation.

10 THE WITNESS: I'm really not certain. I
11 would say that it was inappropriate, for sure.

12 BY MR. CONNOLLY:

13 Q. For the second incident, the senior enlisted
14 leader who said, "I am a racist bastard, but I will
15 always support you," did you report that individual
16 for those actions?

17 A. For that statement, no, I did not.

18 Q. Do you believe that statement was a UCMJ
19 violation?

20 MR. MENDEZ: Objection. Foundation.

21 THE WITNESS: I'm not certain if it was a

1 UCMJ violation. It was certainly a violation of our
2 core values.

3 BY MR. CONNOLLY:

4 Q. On the last paragraph on page 2 you write,
5 "In Naval Special Warfare, we are forged and find
6 unity through shared pain at BUDS. Our rigorous
7 selection process and call to serve the nation is what
8 binds us. For me, there are only two colors in the
9 military: Camouflage dark green and light green." .

10 Do you still believe that statement?

11 A. Yes, I do.

12 And I would go on to say that given the
13 opportunity, you know, what is not written, when we
14 talk about camouflage dark green and light green, it's
15 a play on words because there are all shades out
16 there. But it's written to just serve as a metaphor,
17 if you will, that mission is a priority as opposed to
18 whether you're a dark person, a light person, a man or
19 a woman, et cetera, et cetera.

20 Q. The mission is the number one priority; is
21 that what you said?

1 A. I said the mission is obviously one of our
2 top priorities that's our charge to complete the
3 mission. But, again, just offering a little more
4 context on camouflage dark green, light green.

5 What I mean to say and what I'm trying to
6 convey is that there's more than one shade, there is
7 more than one element that goes into any given
8 individual, you know, when talking about reflecting
9 their background and experience. I said dark green
10 and light green implying that oh, I'm just talking
11 about black and white. I wasn't just referring to
12 black and white. I was talking about referring to
13 generally everything.

14 Q. On page 4, this is about -- it looks like
15 five sentences down starting on the right. You say,
16 "Less than a week after reporting to the U.S. Special
17 Operations Command Headquarters for the first time in
18 21 years of service, I was asked to help strategize
19 methods to broaden opportunities and improve diversity
20 within special operations."

21 Who asked you to strategize methods to

1 broaden opportunities and improve diversity within
2 special operations?

3 A. So my boss at the time -- well, one of my
4 bosses at the time was the deputy commanding officer
5 of the special operations command that was Vice
6 Admiral Tim Szymanski. And the commanding general at
7 the time this article was written was General Clarke,
8 C-L-A-R-K-E.

9 Q. The next paragraph you say: "While I was in
10 command, I saw firsthand why traditionally the
11 military has set the pace for racial progress in the
12 United States. Our Special Operations Task Force
13 mentored several East African partners in a combined
14 effort to counter violent extremists. On a daily
15 basis our task force, which predominantly lacked
16 diversity, risked life and limb for people of color in
17 a contested, volatile environment. It was there
18 inculturated inclination to assume additional elevated
19 personal risk to protect our partners. We maintained
20 a rigorous mission approval process to address this
21 fundamental drive to protect our partners, safeguard

1 civilian lives, and foster a better quality of life in
2 emerging nations. These patriotic Americans, many
3 heros, are worthy examples to the most frustrated and
4 underprivileged in our society."

5 What you said in this paragraph, is it true?

6 A. I believe -- I stand by the statement that I
7 wrote and I believe the sentiments to be true.

8 Q. When you talk -- the unit that you were
9 talking about here, that mentored several East African
10 partners, what time period would that have been?

11 A. In 2019, that timeframe.

12 Q. So this -- would this be part of Seal Team
13 10?

14 A. Correct.

15 Q. Seal Team 10, this is the group that had
16 about 2 or 3 out of 115 that were African-Americans;
17 is that correct?

18 MR. MENDEZ: Objection. Mischaracterizes
19 the witness's prior testimony.

20 THE WITNESS: I would have to go back and
21 look exactly what I said, but that's generally about

1 as I recall, the number of, at least, black -- to my
2 recollection that's approximately the number of black
3 teammates at Seal Team 10 that I recall.

4 Q. Two or three; correct?

5 A. Yes, two or three.

6 Excuse me, what time is it?

7 MR. MENDEZ: 2:24.

8 THE WITNESS: Can we take a 2-minute break?

9 (Whereupon, a recess ensued.)

10 MR. CONNOLLY: Back on the record.

11 BY MR. CONNOLLY:

12 Q. Captain Birch, can you identify anyone in
13 the military who told you that your race was important
14 to them?

15 MR. MENDEZ: Objection. Foundation.

16 THE WITNESS: Can you be more specific in
17 terms of -- you say importance?

18 BY MR. CONNOLLY:

19 Q. Important in any way to you, that -- to
20 them?

21 A. Sure. I mean, I can say callous people

1 throughout my career have approached me, peers,
2 subordinates, senior individuals who recognized that
3 in being the first and many times one and/or one of
4 just a few, particularly a black seal or even just as
5 a black officer, has been important to them for
6 different reasons. Differing from what's important to
7 them.

8 You know, senior leaders have expressed to
9 me from their prospective the importance of having
10 leadership that has numerous different commonalities
11 with the people that they lead. Certainly race being
12 one of them and how that was important to them as a
13 junior leader for themselves and also as they've
14 noticed for that importance in their formation as well
15 throughout their careers.

16 I have had numerous midshipmen, numerous
17 junior sailors express their -- express how it was
18 important to them and that one aspect of being a
19 leader resonated with them. Oftentimes in -- or
20 sometimes in their recruitment and oftentimes with
21 their retention in the service as well.

1 Q. Can you give me the names of -- let's start
2 with the midshipmen. Can you give me the names of
3 some of these midshipmen?

4 A. So I'm not providing names of midshipmen who
5 I could mentor.

6 Q. So you can identify them, but you will not
7 be providing the names?

8 MR. MENDEZ: Objection. Asked and answered.

9 THE WITNESS: Correct. I will not be
10 providing those names.

11 BY MR. CONNOLLY:

12 Q. How about subordinates who told you this?
13 Can you provide me their names?

14 A. I won't be providing specific names of
15 individuals that I have mentored throughout my career,
16 midshipmen or active duty or former active duty
17 sailors and/or Marines.

18 Q. So you are -- you know the names of
19 individuals who have told you that your race is
20 important to them, but you will not identify any of
21 the names to me; do I have that correct?

1 MR. MENDEZ: Objection. Asked and answered.

2 THE WITNESS: Correct in that I do have -- I
3 can recall some names of individuals who've expressed
4 that my race was one of, I think, several aspects of
5 my diversity that was important to them. However, I
6 will not provide their names as a mentor/mentee
7 relationship, I believe, is one that's -- that
8 requires trust throughout its existence, and that I'm
9 not comfortable providing those names in this context.

10 Q. Who are the senior leaders that told you
11 that your race was important to them?

12 A. So, specifically I can speak to two leaders
13 who looked to me in my career to be a leader and felt
14 that my story, my experience, was worth sharing with
15 others. And those individuals would be General
16 Clarke, Former Commanding Officer of the U.S. Special
17 Operations Command, as well as the former vice
18 commander of U.S. Special Operations Command, Vice
19 Admiral Szymanski.

20 Again, those are individuals who I believe
21 value my diverse experience and my diversity in all

1 aspects, so to include race, and expressed that to me.

2 Q. Who are the peers of yours who expressed to
3 you that your race was important to them?

4 A. So at this time I'm not comfortable sharing
5 the names of peers who made that note.

6 Q. Can you identify anyone who joined the Navy
7 because of the existence of racial diversity?

8 MR. MENDEZ: Objection. Foundation. Calls
9 for speculation.

10 THE WITNESS: I can reflect on individuals
11 who I have mentored who were drawn to service because
12 they recognized that they would have an opportunity to
13 work in a diverse environment and potentially and
14 sometimes in certain cases work with individuals that
15 shared the diversity with them. And so that was a
16 source of motivation for them.

17 BY MR. CONNOLLY:

18 Q. And what are their names?

19 A. I'm not providing names of mentees of mine.

20 Q. Can you identify anyone who decided to
21 retire because of the lack of racial diversity?

1 MR. MENDEZ: Objection. Calls for
2 speculation.

3 THE WITNESS: So I am -- I haven't had these
4 discussions with anyone that's expressed -- I have
5 interacted and familiar with teammates that decided to
6 -- one of the contributing factors that led to them
7 terminating the service, retirement, characterized as
8 doing 20 years or more, but served and decided that in
9 their service and the lack of racial diversity was a
10 component -- the lack of racial diversity in the units
11 they served in did contribute to that decision.

12 Q. And what was that individual's name?

13 A. I'm not comfortable with providing names in
14 this context.

15 Q. Can you identify anyone who ever told you
16 that they found the United States military less
17 legitimate because of the lack of racial diversity?

18 MR. MENDEZ: Objection. Foundation.

19 THE WITNESS: Can you repeat the question,
20 please?

21 BY MR. CONNOLLY:

1 Q. Can you identify anyone who ever told you
2 that they found the United States military less
3 legitimate because of the lack of racial diversity?

4 MR. MENDEZ: Same objection.

5 THE WITNESS: I can't recall a conversation
6 where someone used that exact verbiage. I can say in
7 conversations I've had with active duty and civilians
8 that oftentimes they had an apprehension or uneasiness
9 about the U.S. military because it was, in their mind,
10 viewed as an undiverse organization.

11 BY MR. CONNOLLY:

12 Q. Can you tell me the names of the individuals
13 that you just referenced?

14 A. No.

15 Q. No, you don't know or, no, you won't be
16 telling me?

17 MR. MENDEZ: Objection to form. Compound.

18 THE WITNESS: No, in that I can't recall or
19 at this time I'm prepared to regurgitate -- identify
20 specific individuals by name.

21 BY MR. CONNOLLY:

1 Q. And just so the record is clear, putting
2 aside whether you're going to tell me, do you know the
3 names of any individuals who told you that they found
4 the United States military less legitimate because of
5 the lack of racial diversity?

6 MR. MENDEZ: Objection. Foundation.

7 THE WITNESS: Again, in, say, less
8 legitimate, I was referring to -- what I believe I
9 said, less comfortable with our military or less
10 confidence, I believe. I can't remember exactly what
11 I said, but I didn't say less legitimate.

12 BY MR. CONNOLLY:

13 Q. And for those individuals who you are
14 thinking of, do you know their names?

15 A. I can think of some names in particular, but
16 I'm not going to provide those names. I do know those
17 names, and I am not going to provide those names.

18 Q. Okay.

19 You're on the admissions board; correct?

20 A. Yes.

21 Q. Have you ever considered an applicant's race

1 in deciding whether that applicant was qualified to
2 attend the Naval Academy?

3 MR. MENDEZ: Objection. Foundation.

4 THE WITNESS: So, in terms of coming to the
5 determination of whether they are qualified, I think
6 race has been included as it informs their unique life
7 experience or -- and/or any particular adversity in
8 other different aspects that I think make them a more
9 viable, stronger candidate, a more qualified candidate
10 in terms of evaluating their admissions package.

11 BY MR. CONNOLLY:

12 Q. Have you ever given an applicant a tip
13 because of their race?

14 MR. MENDEZ: Objection. Foundation.

15 THE WITNESS: Can you please clarify tip?

16 BY MR. CONNOLLY:

17 Q. An extra -- an extra boost in your mind.

18 A. No.

19 Q. Have you -- you say you have considered a
20 person's -- you gave me your answer about how you have
21 -- how you consider race in the application process.

1 in being able to share that in that country, all of
2 the dimensions of diversity certainly to include my
3 racial diversity and background, immediate background
4 or specific background -- I would say unique, but
5 specific background -- was the source of interest and
6 positivity and pride for the Bangladeshis that I
7 worked with. And those situations, those reflections,
8 come from top more senior teammates in various
9 different scenarios. Working in the embassy, like
10 within the embassy walls, as well as on different
11 training events.

12 Q. Taking each of these one by one, you talk
13 about you were -- your time now as a senior mentor to
14 your battalion here at the Naval Academy; correct?

15 A. Yes.

16 Q. To save a bunch of time, you talk about
17 recruitment. How diversity helped recruitment, how it
18 helped retention, how it helped culture.

19 I don't know if you said it helped, but you
20 mentioned those three things.

21 Do you know the names of midshipmen here who

1 could discuss these aspects of your mentorship?

2 MR. MENDEZ: Objection. Foundation.

3 Objection. Vague.

4 You may answer.

5 THE WITNESS: And so as -- I think the
6 mentor/mentee relationship is a very special one. I
7 think, in my opinion, it's privileged. There is a
8 level of trust there. As their leader, as someone who
9 many times has to discipline them, which I do on --
10 very, very often -- as I do often, is -- it would be
11 inappropriate for me to provide specific names to
12 essentially new recruits, 17-, 18-year-old individuals
13 that I've mentored.

14 BY MR. CONNOLLY:

15 Q. Second one, you were the Vice Chief -- your
16 second example, I think you said you were the Aide to
17 the Vice Chief of Naval Operations. That was from
18 approximately 2011 through 2013; correct?

19 A. Correct.

20 Q. And that was in the Pentagon?

21 A. Correct.

1 Q. And you said racial diversity was here was
2 that you had an opportunity to showcase diversity in
3 China; is that correct?

4 MR. MENDEZ: Objection. Mischaracterizes
5 the witness's prior testimony.

6 MR. CONNOLLY: I thought I was writing
7 verbatim what you said.

8 BY MR. CONNOLLY:

9 Q. Did you -- as part of this position, did you
10 have an opportunity to showcase diversity -- racial
11 diversity in China?

12 MR. MENDEZ: Same objection.

13 THE WITNESS: Yes. As well as other
14 different dimensions of diversity through our
15 interactions with both military and civilians that we
16 encountered in China during that visit.

17 BY MR. CONNOLLY:

18 Q. Got you.

19 And why was it important to showcase racial
20 diversity in China?

21 MR. MENDEZ: Objection. Foundation.